

Docket No.: CISCO-3358

REMARKS

In the Office action mailed 02/08/04, claims 12-17 were allowed. Applicant thanks the Examiner for allowing these claims. Applicant incorporates by references all of the arguments made by Applicant in prior responses to Office Actions. Claims 1-4, 6, 8, 10, 18, 20, 21, 24, 26 were rejected under 35 U.S.C. 102(b) as being unpatentable over Schmidt (U.S. Patent #5,513,185). Applicant respectfully traverses this rejection.

1. With respect to independent claims 1, 8, 10, 18, 24 and 26, Schmidt does not disclose the claimed limitation of a sent counter that is used to detect a communications link failure. While Schmidt is cited at FIG. 1, col. 2 lines 20-31 and lines 40-46, Applicant denies that those cited portions contain any reference to the claimed limitation. Directing attention to Schmidt's FIG.1, there is no reference numeral appearing that references a counter. However, in FIG. 2, there are two counters shown, one being error detector counter 201 and counter 214 that counts the output of a clock. Schmidt's error detector counter 201 is not a sent counter, nor is counter 214, as clock output is not any equivalent to a sent counter.

Schmidt at col. 2 lines 20-31 reads:

In accordance with one embodiment of the present invention, an error rate monitor which can be used as a SUEM to monitor errors that occur in a signaling link is arranged to determine increment and decrement values as a joint function of (a) the round trip delay τ on the transmission link, (b) the maximum allowable error rate $\lambda_{sub.0}$ on the link, and (c) the link speed c , so that, in general, the increment and decrement values are significantly different. The system monitors errors on the link for intervals of τ seconds. If one or more errors occur in an interval, the increment is added to a counter (originally initialized to zero).

Schmidt's discussion of round trip delay, maximum allowable error rate, link speed cannot be characterized as disclosure of a sent counter. Rather, the counter is

Docket No.: CISCO-3358

specifically described as indicating a number of errors occurring in an interval that is initialized to zero.

Schmidt at col. 2, lines 40 through 46 reads:

In accordance with a more generalized embodiment of the present invention, an estimate "q" of the number of messages stored in the transmit buffer as a result of link errors, which is thus an estimate of the amount of data requiring retransmission, is computed by summing a series of contributions Δq that occur over a plurality of "n" subintervals which together comprise the time interval " τ ".

An estimate is not a sent indicator; nor is the number of messages stored in a transmit buffer as a result of link errors. Similarly, an estimated number representing data requiring retransmission is not a sent counter. Neither the cited portions nor any other part of Schmidt teaches or otherwise discloses a sent counter as claimed in the present application.

2. Additionally, the claimed limitation of error rate calculation using a threshold value having an initial value. While this limitation was cited as being taught by Schmidt, Applicant submits that the portions cited in Schmidt against this limitation do not contain any such limitation. Specifically, Schmidt is cited at col. 2, lines 32-34 as disclosing a threshold value having an initial value referenced by the threshold T which implicitly carries an initial value upon which to compare values. While this portion has been cited in this same office action as disclosing a sent counter, the same counter is now being used as a reference to a counter of something else. Applicant incorporates the argument above and respectfully submits that col. 2, lines 32-34, again references an error counter, not a sent counter nor a threshold value having an initial value. If the counter is used to indicate how many errors have occurred in a given period, they themselves cannot be considered a threshold value; rather, they are compared to a threshold value (Schmidt "when the counter exceeds a given threshold T...").

3. Schmidt likewise fails to disclose the use of an RTT-time interval for updating a sent counter when a packet has been sent according to the RTT-time interval. Although this limitation appears in the independent claims, there is no disclosure in Schmidt to anticipate this claimed limitation.

4. With respect to the 35 U.S.C. 103 (a) rejection of claims 9, 11, 19, 25, and 27, these claims depend from independent claims 8, 10, 18, 24 and 26, respectively, and thus inherit all of the claim limitations of these base claims. Applicant incorporates the arguments presented above for independent claims 8, 10, 18, 24 and 26, and because not all of the claim limitations have been shown to be disclosed by others, not every claim limitation is anticipated by any combination of Schmidt in view of Kant. As such, Applicant submits that the prima facie evidence required by the MPEP to warrant a 35 U.S.C. 103(a) rejection has not been met.

Docket No.: CISCO-3358

CONCLUSION

Applicant has addressed all grounds for rejection and objection as stated in the Office Action mailed 2/08/05, and respectfully requests that the Examiner withdraw all rejections and place this application in condition for allowance.

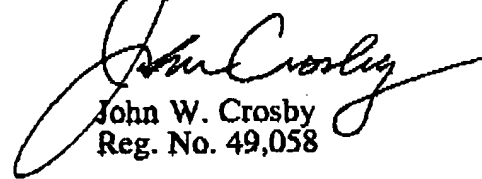
INVITATION TO TELEPHONE CONFERENCE

If any remaining issues exist, the Examiner is invited to call the undersigned attorney at the telephone number listed below.

Date: May 9, 2005

Sierra Patent Group, Ltd.
P.O. Box 6149
Stateline, Nevada 89449
Telephone: (775) 586-9500

Respectfully submitted,
SIERRA PATENT GROUP, LTD.



John W. Crosby
Reg. No. 49,058